

JO ANN HOWARD &
ASSOCIATES, P.C., *et al.*,

VS.

Defendants.

MEMORANDUM AND ORDER

Plaintiffs originally filed their Motion to Compel 30(b)(6) Testimony from National City Bank (“National City”) [ECF No. 1565], on May 22, 2014. A hearing was held on June 9, 2014, and it was agreed Plaintiffs’ motion would be held in abeyance while the parties attempted to resolve the issues. A second 30(b)(6) deposition was held on September 25, 2014. At a second hearing on November 12, 2014, Plaintiffs’ Motion was again heard by the Court where Plaintiffs’ Motion was again held in abeyance. On December 12, 2014, Plaintiffs filed a supplement to their original motion [ECF No. 2012]. Plaintiffs are requesting National City produce a witness for a third 30(b)(6) deposition on two remaining topics: the 2009 satisfaction of mortgage issued by National City and National City’s due diligence and review of Allegiant’s trust department and/or NPS pre-need trusts. In addition, Plaintiffs are also requesting seven

depositions of new witnesses and five depositions of already-deposed witnesses due to new information provided from the documents the Court ordered National City to produce on December 03, 2014, [ECF No. 1983].

The Court heard oral arguments on the additional depositions on December 17, 2014, and decided Plaintiffs will be allowed to conduct the following depositions in the locations provided:

1. A 30(b)(6) deposition on Topic 6 of Plaintiffs' Notice, Due Diligence. Five hours of testimony will be allowed.¹ If the parties can agree, the deposition will be held in St. Louis, Missouri. If parties are unable to come to an agreement, the deposition will be held in Cleveland, Ohio.
2. A 30(b)(6) deposition on Topic 4 of Plaintiffs' Notice, the 2009 satisfaction of mortgage issued by National City. Two hours of testimony will be allowed. The deposition will be held in the same location as the 30(b)(6) deposition listed above.
3. Janice Sackley. No more than three hours of testimony will be permitted. The deposition will be held at a location agreed upon by the parties.
4. Thomas Jurmanovich. Three hours of testimony will be permitted. The deposition will be held in Cleveland, Ohio.²
5. Robert Hipskind. Two hours of testimony will be allowed. The deposition will be held in Cleveland, Ohio.
6. Michael Koch. Four hours of testimony will be permitted. The deposition will be held in either Kansas City, Missouri or Omaha, Nebraska depending on the availability of the witness.

¹ Each length of time designated for the deposition excludes objections.

² Location of a deposition is subject to change upon agreement of the parties.

7. Thomas Plant. Four hours of testimony will be permitted. The deposition will be held in St. Louis, Missouri.
8. Herbert Morisse. Four hours of testimony will be permitted. The deposition will be held in Denver, Colorado.

Accordingly,

IT IS HEREBY ORDERED that "Plaintiffs' Motion to Compel 30(b)(6) Testimony from Defendant National City Bank" [ECF No. 1565] and "Plaintiffs' Supplemental Motion for Leave to Take Supplemental Fact Depositions Based on National City Bank's December 10, 2014, Disclosure" [ECF No. 2012] are **GRANTED**.

So ordered this 22nd Day of December, 2014.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE